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09/737,050	12/14/2000	Christopher Tate	583-1044	7139

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EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2617

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/737,050

Applicant(s)

TATE ET AL.

Examiner

James Sheleheda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 6 is objected to because of the following informalities:

In claim 6, line 3, "recipient servers" should be changed to --client terminator units--.

Appropriate correction is required.

### ***Response to Arguments***

2. Applicant's arguments, see pages 10-12, filed 05/23/05, with respect to the rejection(s) of claim(s) 1-25 under Blahut have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hendricks (6,201,536).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 3, 10, 12, 14, 16, 18, 20, 22 and 24 are rejected under 35

U.S.C. 102(e) as being anticipated by Hendricks et al. (Hendricks) (6,201,536).

As to claim 1, Hendricks discloses a system for streaming data (Fig. 1) comprising: a **content providing server** (operations center, 202) capable of storing content and communicating the content (column 8, lines 8-54) to at least a first and second client terminator unit (set top terminals, 220) via a communications network (concatenated cable system, 210; column 7, lines 1-3 and column 8, line 65-column 9, line 3), and

a **distribution server** (Headend, 208) coupled in-line between the content providing server and the at least first and second client terminator units (see Fig. 1),

wherein the distribution server is arranged to **generate** at least a first and a second onward data stream (staggered streams of a single program; column 34, lines 32-59) and **transmit** the at least the first and second onward data streams (column 34, lines 32-59) to the at least the first and second client terminator units, respectively (transmitted to the subscribers who will receive the program at that start time; column 34, lines 39-59), in response to control data (column 8, lines 31-44) and an incoming data stream received or being received from the content providing server and corresponding to the content (program package signals; column 8, lines 8-30 and 44-54),

**wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, line 65-column 9, line 3 and column 34, lines 32-59) and are **offset** in time with respect to each other by a respective offset value

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(column 34, lines 31-39) indicated in the control data (schedule indicating staggered start times; column 8, lines 31-43 and column 34, lines 31-39 and lines 47-59).

As to claim 10, Hendricks discloses a method of streaming data (Fig. 1) between a content providing server (operations center, 202) and at least a first and second client terminator unit (set top terminals, 220), the method comprising:

receiving at a **distribution server** (Headend, 208) control data (column 8, lines 31-44) and an incoming data stream corresponding to content (program package signals; column 8, lines 8-30 and 44-54), the incoming data stream being received from the content providing server (column 8, lines 8-30 and 44-54),

in response, generating at least a first and second onward data streams (staggered streams of a single received program; column 34, lines 32-59), and

**transmitting** the at least the first and second onward data streams (column 34, lines 32-59) to the at least the first and second client terminator units, respectively (transmitted to the subscribers who will receive the program at that start time; column 34, lines 39-59), in response to the incoming data stream (in response to receiving the program from the operations center; column 8, lines 8-30 and 44-54);

**wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, line 65-column 9, line 3 and column 34, lines 32-59) and are **offset** in time with respect to each other by a respective offset value (column 34, lines 31-39) indicated in the control data (schedule indicating staggered start times; column 8, lines 31-43 and column 34, lines 31-39 and lines 47-59).

As to claims 14, 18 and 22, Hendricks discloses a programmed computer (network manager, 214) for streaming data (Fig. 1) between a content providing server (operations center, 202) and at least a first and second client terminator unit (set top terminals, 220), comprising memory having at least one region for storing computer executable program code (Fig. 3; column 11, lines 14-29) and

a processor for executing the program code stored in memory (column 11, lines 21-29), wherein the program code includes:

code to receive control data (column 8, lines 31-44) and an incoming data stream corresponding to content (program package signals; column 8, lines 8-30 and 44-54), the incoming data stream being received from the content providing server (column 8, lines 8-30 and 44-54),

code to generate, in response to the received control data and incoming data stream received or being received (in response to receiving the program from the operations center; column 8, lines 8-30 and 44-54) at least a first and second onward data streams (staggered streams of a single received program; column 34, lines 32-59), and

code to transmit in response to the received control data and incoming data stream received or being received (in response to receiving the program from the operations center; column 8, lines 8-30 and 44-54), the at least the first and second onward data streams (column 34, lines 32-59) to the at least the first and second client

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terminator units, respectively (transmitted to the subscribers who will receive the program at that start time; column 34, lines 39-59),

**wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, line 65-column 9, line 3 and column 34, lines 32-59) and are **offset** in time with respect to each other by a respective offset value (column 34, lines 31-39) indicated in the control data (schedule indicating staggered start times; column 8, lines 31-43 and column 34, lines 31-39 and lines 47-59).

As to claims 3, 12, 16, 20 and 24, Hendricks discloses wherein the offset value is provided by the content providing server (wherein Operations center indicates the start times of the program streams; column 8, lines 31-44 and column 34, lines 32-39).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 11, 15, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks as applied to claims 1, 10, 14, 18 and 22 above, and further in view of Debey (5,701,582) (of record).

As to claims 2, 11, 15, 19 and 23, while Hendricks discloses the generating of first and second onward data streams, he fails to specifically disclose wherein data streams are generated prior to receipt of all of the incoming data stream.

Debey discloses the transmission of digital programming streams (column 14, lines 22-36), received at A/V digitizing units, (72 in Fig. 7A, column 13 lines 64-67 and column 14, lines 1-21), which are generated prior to receipt of all of an incoming data stream (column 14, lines 22-36), for the typical advantage of transmitting live television feeds to viewers as they are received.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hendricks' system to include wherein data streams are generated prior to receipt of all of the incoming data stream, as taught by Debey, for the typical advantage of transmitting live television feeds to viewers as they are received.

7. Claims 4, 13, 17, 21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks as applied to claims 1, 10, 14, 18 and 22 above, and further in view of Ganek (5,724,646) (of record).

As to claims 4, 13, 17, 21 and 25, while Hendricks discloses wherein a processor is arranged to transmit a plurality of data streams with an offset value, he fails to specifically disclose wherein the first data stream loops at least once.

In an analogous art, Ganek discloses a near video on demand system where a program continuously transmits (loops) over a primary channel (Fig. 5b, column 1, lines



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55-60) for the typical advantage of providing the video programming for an extended period of time.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify the combined system of Blahut and Hendricks' to include wherein the first data stream loops at least once, as taught by Ganek, for the typical advantage of providing the video programming for an extended period of time.

8. Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of Fluss (6,304,578) (of record).

As to claim 5, while Hendricks discloses a multicast server for streaming data (Headend, 208), comprising a processor unit (column 11, lines 21-29) coupled to a storage device (file server, 215),

the processor unit being arranged to receive control data (column 8, lines 31-44) and an incoming data stream corresponding to content (program package signals; column 8, lines 8-30 and 44-54), the incoming data stream being received from a content providing server (operations center, 202; column 8, lines 8-54) and being arranged to store the content in the storage device (column 9, line 51-column 10, line 6),

wherein the processor unit is further arranged to generate at least a first and a second onward data streams (staggered streams of a single program; column 34, lines 32-59) for transmission to at least a first and second client terminator unit, respectively (transmitted to the subscriber set top terminals, 220 who will receive the program at that

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start time; column 34, lines 39-59), in response to the control data (column 8, lines 31-44) and incoming data stream (program package signals; column 8, lines 8-30 and 44-54),

**wherein** the at least first and second onward data streams correspond substantially to the content (column 8, line 65-column 9, line 3 and column 34, lines 32-59) and are **offset** in time with respect to each other by a respective offset value (column 34, lines 31-39) indicated in the control data (schedule indicating staggered start times; column 8, lines 31-43 and column 34, lines 31-39 and lines 47-59), he fails to specifically disclose a router coupled to the processor.

In an analogous art, Fluss discloses a video distribution system (Fig. 1) wherein a cable head end (103) will include a router (105; column 4, lines 32-39) for the typical benefit of routing data packets to the appropriate users (column 4, lines 16-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hendricks' system to include a router, as taught by Fluss, for the typical benefit of ensuring that data packets to be transmitted are correctly routed to the appropriate users.

As to claim 6, Hendricks and Fluss disclose wherein the router is arranged to transmit the at least first and second onward data streams to the at least first and second recipient servers, respectively (wherein the router transmits each data packet to the respective user; see Fluss at column 4, lines 34-45).

As to claim 8, Hendricks and Fluss disclose wherein the offset value is provided by the content providing server (wherein the scheduling control data is provided by the Operations Center; see Hendricks at column 8, lines 31-44).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks and Fluss as applied in claim 5 above, and further in view of Ganek.

As to claim 9, while Blahut and Fluss disclose wherein a processor is arranged to transmit a plurality of data streams with an offset value, they fail to specifically disclose wherein the first data stream loops at least once.

In an analogous art, Ganek discloses a near video on demand system (Fig. 1) where a program continuously transmits (loops) over a primary channel (Fig. 5b, column 1, lines 55-60) for the typical benefit advantage of providing the video programming for an extended period of time.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hendricks and Fluss' system to include wherein the first data stream loops at least once, as taught by Ganek, for the typical benefit of providing the video programming to viewers for an extended period of time.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks and Fluss as applied to claim 5 above, and further in view of Debey.

As to claim 5, while Hendricks and Fluss disclose the generating of first and second onward data streams, they fail to specifically disclose wherein data streams are generated prior to receipt of all of the incoming data stream.

Debey discloses the transmission of digital programming streams (column 14, lines 22-36), received at A/V digitizing units, (72 in Fig. 7A, column 13 lines 64-67 and column 14, lines 1-21), which are generated prior to receipt of all of an incoming data stream (column 14, lines 22-36), for the typical advantage of transmitting live television feeds to viewers as they are received.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hendricks and Fluss' system to include wherein data streams are generated prior to receipt of all of the incoming data stream, as taught by Debey, for the typical advantage of transmitting live television feeds to viewers as they are received.

### ***Conclusion***

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2617

JS



VIVEK SRIVASTAVA  
PRIMARY EXAMINER